

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1-23 will be pending in the present application. Claims 21-23 have been added.

Applicant notes with appreciation the Examiner's indication that claims 2-6, 9, 11, 13-17, and 20 represent allowable subject matter and would be allowed if rewritten in independent form. Applicant has adopted the Examiner's suggest as to claims 2, 6, 11, and 13. Claims 2, 6, 11, and 13 have been rewritten in independent form as new claims 21-23. Note that independent claim 21 includes the limitation of claims 2 and 6 in alternative form. Thus, claims 21-23 are believed to be in condition for allowance.

Claims 1, 7, 8, 10, 12, 18, and 19 stand rejected under 35 U.S.C. § 102 as being anticipated by Enzinger (WO00/00246) ("the '246 application"). Applicant respectfully traverses this rejection for the reasons presented below.

Independent claim 1 has been amended to clarify that the invention of these claims is an airway adapter that allows gas to path through the airway adapter. The '246 application is directed to a sputum collection device, and, as such, does not allow gas to path through the device from one end to another. More specifically, claim 1 describes the airway adapter as having a protrusion provided in a tubular first portion. A second bore is defined through the protrusion. A longitudinally compressible member having a third bore is coupled to the protrusion, and a substantially tubular second portion having a fourth bore is coupled to the tubular first portion. The second bore, the third bore, and the fourth bore are in fluid communication so as to define at least a portion of a gas flow path through the airway adapter.

Applicant submits that the '246 application does not teach or suggest an airway adapter having these features. This is easily appreciated by understanding that the device taught by the '246 application is not intended to allow gas to pass from one end to another. Instead, gas passes between connectors 11 and 12. During exhalation, the expiratory pressure moves piston 5

away from connector 11 and sputum is allowed to collect in a catch bag connected to connector 13. The '246 application simply lacks the second bore, the third bore, and the fourth bore coupled as recited in the claim 1 and the corresponding elements in which these bores are defined. The cited references also do not teach or suggest modifying the device taught by the '246 application to correspond to the claimed airway adapter. Accordingly, claim 1 is not anticipated or rendered obvious by the cited references.

Independent claim 10 has been amended along the same lines as those associated with amended independent claim 1. Thus, the distinctions noted above with respect to claim 1 are equally applicable to claim 10. Dependent claims 7, 8, 9, 15, and 18 have been amended to remain consistent with the claim from which they depend.

For the reasons presented above, applicant respectfully submits that independent claims 1 and 10 are not rendered obvious by the cited references. In addition, claims 7, 8, 18, and 19 are also not rendered obvious due to their dependency from independent claims 1 or 10. Accordingly, applicant respectfully requests that the above rejection of claims 1, 7, 8, 10, 18, and 19 be withdrawn.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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